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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/348,774	07/07/99	KLEINFELTER	W 3207/22

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EXAMINER	
MORGAN, R	
ART UNIT	PAPER NUMBER
2166	2

DATE MAILED: 05/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

SEY

Office Action Summary	Application No.	Applicant(s)	
	09/348,774	KLEINFELTER, WILLIAM M.	
	Examiner	Art Unit	
	Robert W. Morgan	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-19 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15)☒ Notice of References Cited (PTO-892)
16)☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18)☐ Interview Summary (PTO-413) Paper No(s). _____ .
19)☐ Notice of Informal Patent Application (PTO-152)
20)☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "predetermined time interval" in claims 3, 5, 7, 12, 14, and 16 is a relative term which renders the claim indefinite. The term "predetermined time interval" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The phrase "predetermined time interval" does not teach a range, which defines the scope, therefore it is impossible to determine a necessary time interval to accomplish the task.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-19 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 5,950,630 to Portwood et al.

As per claim 1, Portwood et al. teaches a computer implemented method for processing prescription data representing a plurality of prescription drugs, said method comprising the steps of:

arranging received prescription data that corresponds to a first prescription drug into a new record of a predetermined format containing an identifier for identifying said patient and further containing a first name of said first prescription drug is met by the prescription information being entered and organized according to drug name, units, strength, prescription signature, refills, dosing mode and a date last administered to the patient (see: column 6, lines 50-54);

accessing a plurality of pre-stored records of said predetermined format, each pre-stored record containing information on a plurality of prescription drugs previously prescribed for respective patients is met by the CPU (1, Fig. 4) that allows the patient prescription data or records to be quickly access as well as making and entering any changes to the already existing prescription (see: column 16, lines 47-57);

comparing said identifier in said new record with each identifier located in the pre-stored records to find a matching pre-stored record associated with said patient is met by the comparing existing and current patient's prescription data which includes the duration and dosage range of a administered drug as transmitted by the reporting unit (see: column 3, lines 5-10);

comparing said first name of said first prescription drug with a second name of a second prescription drug located in the found matching pre-stored record is met by comparing existing and current patient's prescription data which includes but not limited to patient name, drug name, unit and strength (see column 6, lines 5-10 and column 6, lines 50-54); and

identifying said first prescription drug as a new therapy start for said patient if said first name is not substantially identical to said second name is met by the Generic Product Identifier (GPI) and National Drug Code (NDC) both used to determine the drug used by a patient and to determine a new recommend or continuing medical regimen (see: column 7, lines 56-67).

As per claim 2, Portwood et al. teaches determining whether types of said first and second names are brand or generic if said first name is not substantially identical to said second name, converting one of said first and second names to the type of the remaining name if the types are different, and ascertaining an equivalency between said first and second names based on the converted name is met by comparing the pharmaceutical information (existing prescription) and the patient prescription data(current prescription) which includes the use of the

National Drug Code (NDC) and the Generic Product Identifier (GPI) to select the correct drug name needed to full the prescription (see: column 6, lines 50-61 and column 7, lines 56-67).

As per claim 3, Portwood et al. teaches collecting the pre-stored records over a predetermined time interval is met by the printing of several reports such as a prescription calendar and prescribed medical regimen that need to be collected and transmitted to the patient over the course of the treatment (see: column 16, lines 11-23).

As per claim 4, Portwood et al. teaches a predetermined format further contains a date of dispensing said prescription drug to said patient and a dosage of said prescription drug (see: column 6, lines 50-54).

As per claim 5, Portwood et al. teaches calculating a last day when said patient has taken said second prescription based on said date of dispensing and on said dosage if said first and last names are substantially identical, determining a length of time elapsed between said last day of taking said second prescription drug and a first day of dispensing said first prescription drug, and identifying said first prescription drug as newly prescribed for said patient if said length of time exceeds a predetermined time interval is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63).

As per claim 6, obtaining each pre-stored record for said patient, accessing a list of illnesses to determine each illness treatable by each respective prescription drug contained in said each pre-stored record, accessing said list of illnesses to determine an illness treatable by said first prescription drug identified as newly prescribed, and ascertaining whether said first prescription drug is a replacement for another prescription drug previously taken by said patient is met by the ability to access the patient prescription which includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

As per claim 7, calculating a last day when said patient has taken said another prescription drug based on said date of dispensing and on said dosage, determining a length of time elapsed between said last day of taking said another prescription drug and a first day of

dispensing said first prescription drug, and identifying said first prescription drug as said replacement if said length of time does not exceed a predetermined time interval is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67).

As per claim 8, said predetermined format further contains a prescriber name, a prescriber address, and a patient zip code (see: column 8, lines 27-29 and 38-39).

As per claim 9, selecting every prescription drug identified as newly prescribed for each patient over a predetermined time interval, and sorting the selected prescription drugs according to at least one criterion selected from the following: a prescriber's name, a prescriber's address, a patient's zip code, a prescriber's specialty, a pharmaceutical sales territory, national-based reporting, ICD9 code is met by the patient prescription data which includes a prescriber's name (see: column 8, lines 27-29).

As per claims 10-18, they are rejected for the same the reasons set forth in claims 1-9.

As per claim 19, a computer-readable storage medium for storing a program code for, when executed, causing a computer to perform a method for processing prescription data representing a plurality of prescription drugs, said method comprising:

arranging received prescription data that corresponds to a first prescription drug into a new record of a predetermined format containing an identifier for identifying said patient and further containing a first name of said first prescription drug is met by the prescription information being enter and organized according to drug name, units, strength, prescription signature, refills, dosing mode and a date last administered to the patient (see: column 6, lines 50-54 and column 7, lines 40-51);

accessing a plurality of pre-stored records of said predetermined format, each pre-stored record containing information on a plurality of prescription drugs previously prescribed for respective patients is met by the CPU (1, Fig. 4) that allows the patient prescription data or records to be quickly access as well as making and entering any changes to the already existing prescription (see: column 16, lines 47-57 and column 7, lines 40-51);

comparing said identifier in said new record with each identifier located in the pre-stored records to find a matching pre-stored record associated with said patient is met by the comparing existing and current patient's prescription data which includes the duration and dosage range of a

administered drug as transmitted by the reporting unit (see: column 3, lines 5-10 and column 7, lines 40-51);

comparing said first name of said first prescription drug with a second name of a second prescription drug located in the found matching pre-stored record is met by comparing existing and current patient's prescription data which includes but not limited to patient name, drug name, unit and strength (see column 6, lines 5-10 and column 6, lines 50-54 and column 7, lines 40-51); and

identifying said first prescription drug as a new therapy start for said patient if said first name is not substantially identical to said second name is met by the Generic Product Identifier (GPI) and National Drug Code (NDC) both used to determine the drug used by a patient and to determine a new recommend or continuing medical regimen (see: column 7, lines 56-67 and column 7, lines 40-51).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art Classen (6,219,674) provides a system to manage, protect and create prescriber's medical and non-medical product, which enhances safety for the consumer.

In related art Mayaud (5,845,255) uses a prescription management system to aid physicians with patient prescription and medical treatment.

In related art Rhodes et al. (5,666,492) teaches a computer based pharmaceutical management system that allows the transformation of pharmacist from a vendor to a health care provider.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is 703-605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-1396 for regular communications and 703-308-1396 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Robert Morgan
Robert Morgan
May 11, 2001

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
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